



09-11-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 16 2002

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In re the Patent Application of

**Applicant:** Harris, Dennis H., et al.

**Art Unit:** 1617

**Serial No.:** 10/053,794

**Examiner:** Wang, Shengjun

**Filed:** 06/14/00

**Docket:** 51568-2

**For:** TOPICAL THERAPEUTIC SKIN CARE SYSTEM

### RESPONSE TO FIRST OFFICE ACTION

September 9, 2002

Honorable Commissioner of  
Patents  
Washington, D.C. 20231

Sir:

In response to the Examiner's Office Action of August 13, 2002, Applicant respectfully traverses the restriction requirement. The present application is drawn to a topical therapeutic composition and a method of using that composition. The method steps comprise applying a first phase composition, allowing it to dry, removing the first phase composition, applying a second phase composition, and leaving said composition in place.

The Examiner cites the claims of Allen (U.S. Patent 6,361,806) to show that Applicant's process may be used with a materially different product. But Allen's method claims do not demonstrate use of Applicant's process with Allen's product. Allen discloses a one-step method (Claim 25: Administer the composition of claim 1) and possibly a two-step method (e.g. claim 28: select candidate in need exhibiting certain

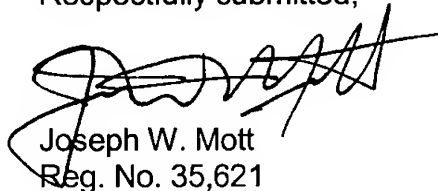
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characteristics and administer the composition of claim 1). Neither is the same as, or similar to, Applicant's method. Nor is there any suggestion that Applicant's process could be practiced with Allen's product. Indeed, Allen has only one independent composition claim, making it inappropriate for a two phase treatment. Finally, Applicant notes that the method and product of Allen are not divided, even though the method (administer the product) can be practiced with every topical composition.

For the foregoing reasons, Applicant respectfully requests that the restriction requirement be withdrawn. Applicant provisionally elects claims 1-9 to be examined.

Respectfully submitted,



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